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Janet Wasowicz

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DLA PIPER US LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

EXAMINER

FRISBY, KESHA

ART UNIT

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3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/713,695	Applicant(s) WASOWICZ ET AL.	
	Examiner KESHA FRISBY	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 340-481 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 340-481 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/14/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

After the amendment filed on 11/14/2003, claims 340-481 are pending in this application. Claims 1-339 were cancelled.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 340, 342-353, 355, 356, 387, 389-399, 402, 403, 435, 437-448, 450 & 451 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 & 7-16 of U.S. Patent No. 6,299, 452 in view of Corder (US Patent Number 5,692,906).

Application claims 340, 387 & 435 correlate to patent claim 1: Although the conflicting claims are not identical, they are not patentably distinct from each other because *U.S. Patent Number 6,299,452 includes wherein the server computer further comprises a*

recommender for recommending, based on the scores of the one or more tests, one or more training modules for improving a reading or pre-reading skill of the individual as indicated by the score of the tests. As a result, the examiner uses rationale reasoned from legal precedent that an omission of an element with the consequent loss of its function is deemed obvious. See *In re Kuhle*, 188 U.S.P.Q.7. In addition, US Patent Number does not disclose a teacher station from downloading the tests from the server computer. However, Corder teaches a teacher station (teacher's workstation) from downloading the tests from the server computer (file server). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a teacher station, as disclosed by Corder, incorporated into US Patent Number 6,299,452 in order to evaluate the student's response after the test has been given.

Application claims 345, 392 & 440 correlate to patent claim 5: Although the conflicting claims are not identical, they are not patentably distinct from each other because *U.S. Patent Number 6,299,452 includes a fluent reader test for testing the ability to read fluently.* As a result, the examiner uses rationale reasoned from legal precedent that an omission of an element with the consequent loss of its function is deemed obvious. See *In re Kuhle*, 188 U.S.P.Q.7.

Application claims 342, 389 & 437 correlate to patent claim 2, application claims 343, 390 & 438 correlate to patent claim 3, application claims 344, 391 & 439 correlate to patent claim 4, application claims 346, 393 & 441 correlate to patent claim 7, application claims 347, 394 & 442 correlate to patent claim 8, application claims 348, 395 & 443 correlate to patent claim 9, application claims 349, 396 & 444 correlate to patent claim

10, application claims 350, 397 & 445 correlate to patent claim 11, application claims 351, 398 & 446 correlate to patent claim 12, application claims 352, 399 & 447 correlates to patent claim 13, application claims 353 & 448 correlate to patent claim 14, application claims 355, 402 & 450 correlate to patent claim 15 and application claims 356, 403 & 451 correlate to patent claim 16.

Information Disclosure Statement

1. The information disclosure statement filed 11/14/2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed (International Search Report for PCT/US03/03146 dated July, 11 2003). It has been placed in the application file, but the information referred to therein has not been considered.

Specification

2. Please update the status of application numbers 09/350,791 & 09/912,681 on the first page of the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 340, 344, 346-349, 351, 354, 362-368, 372, 377, 379, 387, 391, 393-396, 398, 405, 409-415, 419-425, 427, 435, 439, 441-444, 446, 449, 457-463, 467-472 & 474 are rejected under 35 U.S.C. 102(b) as being anticipated by Corder (US 5,692,906).

[Claims 340, 387 & 435]: Regarding Claims 340, 387 & 435, Corder discloses a server computer (file server) comprising one or more tests for determining deficiencies in one or more reading and pre-reading skills (column 11 lines 59-63), a scorer for determining a score for each test (Col. 3:42-53, Col.6: 14-17, 32, Col.7: 51-52, Col.12: 18-25 and Col.13: 32-41); a teacher station for downloading the tests from the server computer (teacher's workstation); and one or more client computers (student's workstation) that establish a communications session with the server computer to download the one or more tests from the server computer (Fig. 2(c) and the associated text) each client computer (student's workstation) comprising means for displaying at least one of a graphical image and audio associated with each test located on the server (FIG. 2(b) and Col.3: 25-28), means for receiving a user response (e.g., voice recording device) to one of the graphical images and audio presented by each test, means for communicating the response for each test back to the server computer (FIGS 2(b)-2(c) and Col.3: 28-30).

[Claims 344, 391 & 439]: Regarding Claims 344, 391 & 439, Corder discloses wherein the user input device of the one or more client computers comprise a speech recognition device for receiving a verbal response from the user to the one or more tests. See Col.3: 67-Col.4: 4, Col.10: 36-44, and FIG 2(a), component 242. Digitally

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recording of voice requires the recognition of speech and the digitized interpretation thereof.

[Claims 346, 393 & 441]: Regarding Claims 346, 393 & 441, Corder discloses wherein the tests further comprise a rhyme recognition test further comprising means for providing at least two stimuli to the user and means for receiving user input in response to the at least two stimuli to determine the user's ability to recognize rhyming words.

See Col.13: 64. Regardless of whether or not Corder uses rhyming recognition to test the user's hearing channel, Corder discloses a rhyme recognition test (i.e., recognizing rhyming words). A recitation of the intended use of the claimed invention (i.e., to determine the user's ability to recognize rhyming words) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

[Claims 347, 394 & 442]: Regarding Claims 347, 394 & 442, Corder discloses wherein the tests further comprise a test for recognizing the beginning sound of a stimulus, the test comprising means for generating at least one stimulus having at least an initial phoneme (i.e., beginning sound) and means for receiving a response to the stimulus that indicates an ability of the test taker to recognize the initial phoneme of the stimulus.

See Col.14: 1.

[Claims 348, 395 & 443]: Regarding Claims 348, 395 & 443, Corder, as modified by Jenkins et al., discloses wherein the tests further comprise a test for recognizing the ending sound of a stimulus, the test comprising a means for generating at least one

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stimulus having at least an ending phoneme (i.e., ending sound) and means for receiving a response to the stimulus that indicates an ability of the test taker to recognize the ending phoneme of the stimulus. See Col.14: 2.

[Claim 349, 396 & 444]: Regarding Claims 349 & 396, Corder discloses wherein the one or more tests comprise a rhyme recognition generation test comprising means for generating a stimulus and means for receiving a response from the user identifying a sound unit that rhymes with the stimulus (i.e., using rhyming words to complete sentences). See Col.14: 4.

[Claims 351, 398 & 446]: Regarding Claims 351, 398 & 446, Corder discloses wherein the tests further comprises a sound segmentation test (i.e., identifying syllables in words) comprising means for generating at least one stimulus and means for receiving a response to the stimulus comprising means for segmenting the stimulus into smaller units in order to test the ability to segment the stimulus into smaller units. See Col.14: 5. A recitation of the intended use of the claimed invention (i.e., in order to test the ability to segment the stimulus into smaller segments) must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

[Claims 354 & 449]: Regarding Claim 354, Corder discloses further comprising means for speaking a verbal response into the speech recognition device for receiving a verbal response from the user (voice recording device 262).

[Claim 409]: Referring to claim 409, Corder discloses further comprising, based on the test scores, recommending a training module to improve the skill of a user (abstract).

[Claims 362 & 410]: Regarding Claim 362, Corder discloses wherein the recommender further comprises means for downloading (i.e., network) the recommended training module to the client computer. See FIG 2(c).

[Claim 457]: Regarding Claim 457, Corder discloses further comprising a recommender for recommending, based on the scores of the one or more tests, one or more training modules for improving a reading or pre-reading skill of the individual as indicated by the core of the tests (abstract).

[Claims 363 & 458]: Regarding Claims 363 & 458, Corder discloses wherein the recommender further comprises means for downloading the recommended training module to the student computer.

[Claims 364, 411 & 459]: Regarding Claims 364, 411 & 459, Corder discloses wherein the recommender further comprises means for storing (i.e., storage means) the incorrect responses to the one or more test and means (i.e., preliminary evaluation) for generating a training module recommendation based on the incorrect responses. See Col.3: 28-30 and Col.8: 47-51.

[Claims 365, 366, 412, 413, 460 & 461]: Regarding Claims 365, 366, 412, 413, 460 & 461, Corder discloses wherein the recommender further comprises means for comparing each incorrect response (i.e., number of unsuccessful tries) to one or more error measures (inherent) to identify an error (e.g., deficiency in identifying certain sound/object pairs) associated with each incorrect response and means for generating

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a training module recommendation based on the identified error and wherein the comparing means further comprises means for identifying one or more errors for each incorrect response (i.e., analyze module). See Col.16: 63-Col.16: 3, 24-42.

[Claims 367, 414 & 462]: Regarding Claims 367, 414 & 462, Corder discloses wherein the recommender further comprises means for identifying a deficient skill by comparing the identified error to a deficient skill rule (inherent) and means for generating a training module recommendation based on the identified deficient skill (i.e., prescribe module). See Col.16: 24-36.

[Claims 368, 415 & 463]: Regarding Claims 368, 415 & 463, Corder discloses wherein the server (teacher's workstation) further comprises means for dynamically generating one or more data reports that illustrate the data associated with the one or more tests (e.g., recording the student's responses to the stimuli through the input means to the storage means of the computer). See Col.3: 29-30 and Col.8: 21-28.

[Claims 372, 419 & 467]: Regarding Claims 372, 419 & 467, Corder discloses wherein the data report generator further comprises a user interface (e.g., a copy of the test screen) for browsing other test data for a user. See Col.12: 36-42.

[Claim 373, 420 & 468]: Regarding Claims 373, 420 & 468, Corder discloses wherein the data report generator further comprises means (e.g., a bar chart) for determining the number of user test results shown. See Col.12: 36-42.

[Claims 374, 421 & 469]: Regarding Claims 374, 421 & 469, Corder discloses wherein the data report generator further comprises means (i.e., LaserWriter IINT Printer) for

permitting the user to select a data report print format (e.g., bar chart). See Col.12: 36-42 and FIG. 2(c).

[Claims 375, 422 & 470]: Regarding Claims 375, 422 & 470, Corder discloses wherein the data report generator further comprises means for permitting the user to select a data report display format (e.g., bar chart). This would have been an inherent feature of Corder's invention. See Col.12: 36-42.

[Claims 376, 423 & 471]: Regarding Claim 376, 423 & 471, Corder discloses wherein the data report generator further comprises means for generating a data report (i.e., student's performance) for one or more students in a class, means (e.g., analyze module) for generating a data report for one or more classes each having one or more students and means for generating a data report for a school having one or more classes. See Col.8: 21-27 and Col.16: 36-42.

[Claim 424]: Regarding Claim 424, Corder discloses wherein the client computer further comprises a teacher station (teacher's workstation) that downloads the tests from the server and one or more student computers connected to the teacher station by a network (Fig. 2(c)), each student computer further comprising displaying at least one of a graphical image and audio associated with each test located on the server (FIG. 2(b) and Col.3: 25-28), receiving a user response to one of the graphical images and audio presented by each test and communicating the responses for each test back to the teacher station (FIGS 2(b)-2(c) and Col.3: 28-30).

[Claims 377, 425 & 472]: Regarding Claim 377, Corder discloses wherein the teacher station further comprises means for communicating the response for each test for each student back to the server computer (Figs. 2(b)-2(c) & Col. 3:28-30).

[Claims 379, 427 & 474]: Regarding Claim 379, 427 & 474, Corder discloses wherein each student computer further comprises means for connecting to the server computer and means for downloading the resources necessary to execute the current test when the test is started (i.e., AppleTalk or Other Network). See FIG. 2(c).

[Claim 405]: Regarding Claim 405, Corder discloses wherein the motivation means further comprises means for generating a graphical image and an associated sound to motivate the user to complete the tests. See Col.14: 45-48.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 341, 353, 358, 359, 361, 388, 400, 401, 406, 408, 436, 448, 453, 454 & 456 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder (US 5,692,906) in view of Jenkins et al. (US 6,331,115).

[Claims 341, 388 & 436]: Regarding Claims 341, 388 & 436, Corder discloses the system in claim 340. *Corder does not disclose means for motivating the user to complete the tests.* However, Jenkins et al. teaches means for motivating the user to complete the tests (column 9 lines 21-28 & lines 43-45 & column 10 lines 44-60). It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to include motivating the user, as disclosed by Jenkins et al., incorporated into Corder in order to given the user to earn points, reward game play and provide an entertaining arcade environment.

[Claims 353 & 448]: Regarding Claims 353 & 448, *Corder does not disclose means for motivating the user to complete the tests and a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one sound stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e., via selecting at least one corresponding tile that plays the same auditory phoneme)*. However, Jenkins et al. teaches means for motivating the user to complete the tests (column 9 lines 21-28 & lines 43-45 & column 10 lines 44-60) and a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one sound stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e., via selecting at least one corresponding tile that plays the same auditory phoneme) (Col.3: 31-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include motivating the user, as disclosed by Jenkins et al., incorporated into Corder in order to given the user to earn points, reward game play and provide an entertaining arcade environment.

[Claims 358 & 453]: Regarding Claims 358 & 453, Corder, as modified by Jenkins et al., discloses wherein the motivation means further comprises means for generating a

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graphical image and an associated sound to motivate the user to complete the tests.

See Col.14: 45-48.

[Claims 359, 406 & 454]: Regarding Claim 359, 406 & 454, Corder, as modified by Jenkins et al., discloses wherein the motivation means further comprises means for generating the graphical image and associated sound after a first predetermined number of tests are completed and means for generating another graphical image and associated sound after a second predetermined number of test are completed. See Col.14: 19-26.

[Claims 361, 408 & 456]: Regarding Claims 361,408 & 456, the motivation means in Corder, as modified by Jenkins et al., is capable of comprising means for generating the graphical image and associated sound after a third predetermined number of tests. See Col.14: 19-26.

[Claim 400]: Regarding Claim 400, *Corder does not disclose a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one sound stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e., via selecting at least one corresponding tile that plays the same auditory phoneme)*. However, Jenkins et al. teaches a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one sound stimulus, for receiving a user response indicating the recalling of at least one sound stimulus (i.e., via selecting at least one corresponding tile that plays the same auditory phoneme) (Col.3: 31-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include motivating the

user, as disclosed by Jenkins et al., incorporated into Corder in order to give the user to earn points, reward game play and provide an entertaining arcade environment.

[Claim 401]: Regarding Claim 401, Corder, as modified by Jenkins et al., discloses further comprising means for speaking a verbal response into the speech recognition device for receiving a verbal response from the user (voice recording device 262).

7. Claims 342, 343, 389, 390, 437 & 438 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Protopapas et al. (US 5,868,683).

[Claims 342, 343, 389, 390, 437 & 438]: Regarding Claims 342, 343, 389, 390, 437 & 438, Corder does not disclose expressly wherein the server further comprises a questionnaire (i.e., RD-predictive acoustical test) having one or more questions (i.e., asking the user to respond whether they perceive a pair of tonal stimuli to have the same or different frequencies) for eliciting information about risk factors (e.g., difficulties in mapping a particular sound to a speech sound in the mind) associated with language-based learning disabilities and wherein the information comprises historical data about reading-related risk factors including one or more of medical conditions including chronic otitis media, family history data including history of dyslexia, environmental data including socioeconomic status and exposure to literacy at home and observational data (i.e., a person encountering difficulty in mapping a particular spoken sound to a speech sound in the mind) about an individual's behavior reflecting competencies in speech and sound awareness. However, Protopapas teaches such in Col.4: 11-24 and Col.5: 27-36. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and

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system of Corder, in light of the teaching of Protopapas in order to treat a reading deficit in a human being.

8. Claims 345, 392 & 440 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder et al. in view Jenkins et al., Walker et al. (US 5,421,731), Block et al. (US 6,305,942) and Corder ('132).

[Claims 345, 392 & 440]: Regarding Claims 345, 392 & 440, Corder discloses wherein the one or more tests comprise a rhyme recognition test (Col. 13:64) for testing the ability to recognize rhymes, a rhyme generation test (Col. 14:4) for testing the ability to generate rhymes, a beginning and ending sound recognizer (Col. 14:1 & 2) for testing the ability to recognize the beginning and ending sounds of a word, a sound segmenting test (Col.14: 5) for testing the ability to segment a sound unit into smaller sound units. *Corder does not disclose a sequential verbal recall test for testing the ability to recall a sequence of spoken items and a letter naming and symbol/sound association test for testing the ability to name letters and identify the association between a symbol and an associated sound unit.* However, Jenkins et al. teaches a sequential verbal recall test (Col. 3: 31-41 of Jenkins et al.) for testing the ability to recall a sequence of spoken items and a letter naming and symbol/sound association test for testing the ability to name letters and identify the association between a symbol and an associated sound unit. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include verbal recall, as disclosed by Jenkins et al., incorporated into Corder in order to see if the student can repeat sounds correctly. Corder/Jenkins et al. *does not teach a word decoder test for testing the ability to read by sounding out a*

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written word, a sound blender test for testing the ability to blend sound units together to form words, a sound manipulator test for testing the ability to manipulate sound units to form a new, a rapid naming test for testing the ability to rapidly name one or more items.

However, Walker et al. teaches a word decoder test for testing the ability to read by sounding out a written word (Col. 1: 49-57 & Col. 2: 5-9). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a word decoder test into the method and system of Corder/Jenkins et al., in light of the teaching of Walker, in order to teach reading. *Walker et al. does not disclose sound blender test for testing the ability to blend sound units together to form words, a sound manipulator test for testing the ability to manipulate sound units to form a new, a rapid naming test for testing the ability to rapidly name one or more items.* However, Block et al. teaches sound blender test for testing the ability to blend sound units together to form words (Col.7: 1-9), a sound manipulator test (Col.7: 1-9) for testing the ability to manipulate sound units to form a new. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a sound blender test and sound manipulator test into the method and system of Corder/Jenkins et al./Walker et al., in light of the teaching of Block, in order to help students learn how sounds blend with words. *Block et al. does not teach a rapid naming test for testing the ability to rapidly name one or more items.* However, Corder ('132) teaches a rapid naming test for testing the ability to rapidly name one or more items (Col. 20: 5-50). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of

Corder/Jenkins et al./Walker et al./Block et al., in light of the teaching of '132, in order to teach phonics.

9. Claim 350, 352, 397, 399, 445 & 447 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Block et al. (US 6,305,942).

[Claims 350, 397 & 445]: Regarding Claims 350, 397 & 445, Corder does not disclose expressly wherein the tests further comprise a sound blender test comprising means for generating at least two sound stimuli and means for receiving a user response to the at least two stimuli, the response indicating an ability to blend the at least two sound stimuli into a larger sound unit. However, Block teaches such (i.e., The highlighting cursor is utilized in the video and the interactive computer display to help students learn how the sounds blend with the words ... each sound of the combination of sounds is audibly demonstrated. Next the entire word is stated for the student to repeat.). See Col.7: 1-9. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a sound blender test into the method and system of Corder, in light of the teaching of Block, in order to help students learn how sounds blend with words.

[Claims 352, 399 & 447]: Regarding Claims 352, 399 & 447, Corder does not disclose expressly wherein the tests comprise a sound manipulation test comprising means for generating a sound stimulus having one or more sound units and means, in response to the sound stimulus, for manipulating the sound units of the sound stimulus to test the ability to manipulate sound units. However, Block teaches such (i.e., Next the entire word is stated for the student to repeat. Students then read and write the words in their

workbooks, so they know how to spell them). See Col.7: 1-9. The student's mouth (used to repeat) and the writing mechanism the student uses to write the words are considered to be means for manipulating sound units. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a sound manipulation test into the method and system of Corder, in light of the teaching of Block, in order to help students learn how sounds blend with words.

10. Claims 355, 402 & 450 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Corder (US 5,302,132), hereafter referred to as '132.

[Claims 355, 402 & 450]: Regarding Claims 355, 402 & 450, Corder does not disclose expressly wherein the tests further comprise a naming test comprising means (i.e., first phonogram screen) for generating at least one visual stimulus (e.g., "b") and means, in response to the display of the visual stimulus, for speaking the name of or the sound associated with the visual stimulus (i.e., microphone) using the speech recognition device (i.e., voice analysis). However, '132 teaches such in Col.20: 5-50. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder, in light of the teaching of '132, in order to teach phonics.

11. Claims 356, 403 & 451 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Walker (US 5,421,731).

[Claims 356, 403 & 451]: Regarding Claim 356, 403 & 451, Corder does not disclose expressly a word decoder test comprising means for displaying a visual stimulus to the

user and means, in response to the visual stimulus (i.e., a word), for receiving a response from the user to determine the ability to read the visual stimulus (i.e., verifying a pronunciation of a word). However, Walker teaches such in Col.1: 49-57 and Col.2: 5-9. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a word decoder test into the method and system of Corder, in light of the teaching of Walker, in order to teach reading.

12. Claims 360, 407 & 455 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder/Jenkins et al. and further in view of Truluck et al. (US 6,353,447).

[Claims 360, 407 & 455]: Regarding Claims 360, 407 & 455, Corder/Jenkins et al. does not disclose expressly wherein the generating means further comprises means for generating a graphical image indicating the number of tests (i.e., activities) remaining to be completed, However, Truluck teaches such in FIG.6, Col.1: 48-55, and Col.5: 23-67-Col.6: 15. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder/Jenkins et al., in light of the teaching of Truluck, in order to indicate a user's progress.

13. Claims 369-371, 416-418 & 464-466 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Truluck et al. (US 6,353,447).

[Claims 369-371, 416-418 & 464-466]: Regarding Claims 369-371, 416-418 & 464-466, Corder does not disclose expressly wherein the data reports further comprises means for displaying the test results (i.e., scores) simultaneously for one or more students,

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wherein the displaying means further comprises means for displaying the percentage of correct responses (i.e., percentage correct) for a test, wherein the displaying means further comprises means for displaying the results for one or more different test for each user wherein the results for each test are displayed in a different color (i.e., completed activities are displayed differently (e.g., shaded or different color) from incomplete activities). However, Truluck teaches such in FIG.6, Col.1: 48-55, and Col.5: 23-67- Col.6: 15. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder/Jenkins et al., in light of the teaching of Truluck, in order to indicate a user's progress.

14. Claims 378, 426 & 473 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Haff et al. (US 6,219,669).

[Claims 378, 426 & 473]: Regarding Claims 378, 426 & 473, Corder/Jenkins et al. does not disclose expressly wherein the teacher station further comprises means for detecting a break in the communication between the teacher station and the server computer and means for resending any test data that was not sent due to the communications break. However, Haff teaches such in Col.28: 14-26. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Corder, in light of the teaching of Haff, in order to resume the transmission of a file depending on what portion of the file was previously received.

15. Claims 380-383, 428-431 & 475-478 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Remschel (US 6,411,796).

[Claims 380, 381, 383, 428, 429, 431, 475, 476 & 478]: Regarding Claims 380, 381, 383, 428, 429, 431, 475, 476 & 478, Corder does not disclose wherein the teacher station further comprises means for generating a classroom layout showing an icon for each student computer (i.e., an illustration of the main window of the software showing seat numbers of the student stations), wherein the teacher station further comprises means for monitoring each student's test progress and controlling each student computer (i.e., graphical user interface), wherein generating the layout further comprises means for coloring each icon depending on the state of testing for the particular student computer. However, Remschel teaches such in FIG. 7, Col.3: 19-20, Abstract, and Col.6: 12-25. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder, in light of the teaching of Remschel, in order to enable ease of use of the learning system.

[Claims 382, 430 & 477]: Regarding Claim 382, 430 & 477, Corder, as modified by Remschel, discloses wherein the teacher station further comprises means (i.e., storage means) for collecting student test data. See Col.12: 11-25, 46-50.

16. Claims 384-386, 432-434 & 479-481 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Sonnenfeld (US 6,112,049).

[Claims 384-386, 432-434 & 479-481]: Regarding Claims 384-386, 432-434 & 479-481, Corder does not disclose expressly wherein the teacher station further comprises

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means for generating one or more separate accounts, wherein the accounts include a lead teacher (e.g., test administrator) for managing the use of the diagnostic system by one or more classroom teachers in a particular school and one or more classroom teachers who each administer the diagnostic testing for a particular class of students, wherein the teacher station further comprises means for each lead teacher to register one or more classroom teachers who administer the test and means for each classroom teacher (e.g., test designer) to register one or more students who are taking the test, wherein the lead teacher has access to testing data for the entire school and each classroom teacher has access to testing data for the students in the class of the classroom teacher. However, Sonnenfeld teaches such in Col.9: 64-65 and Col.15: 33-37, 55-57. The lead teacher and the classroom teacher are considered a part of upper management. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Corder, in light of the teaching of Sonnenfeld, in order to provide an automated testing system allowing design and administration of hierarchical testing scheme.

*****All citations above can be found in the Corder reference unless otherwise noted.***

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KESHA FRISBY whose telephone number is (571)272-8774. The examiner can normally be reached on Monday-Friday 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronald Laneau
Examiner
Art Unit 3714

/K. F./
Examiner, Art Unit 3714

/Ronald Laneau/
Supervisory Patent Examiner, Art Unit 3714